BILL NO. S-90-06-18

SPECIAL ORDINANCE S-146-90

AN ORDINANCE authorizing and approving the execution of a certain agreement with the State of Indiana concerning the transfer of existing SR 1 from north of the Fort Wayne bypass of Bluffton Road to Lafayette Street from the State of Indiana to the City of Fort Wayne.

WHEREAS, I.C. 8-11-2-10 provides for transfer of roads or streets between systems;

WHEREAS, the State of Indiana has constructed the Fort Wayne bypass from Interstate Highway 69 (I-69) at Lafayette Center Road around south and east of the urbanized area and connecting to I-69 north of Fort Wayne and has an estimated completion date in 1993;

WHEREAS, the State has determined that existing State Road 1 from north of the Fort Wayne bypass to Bluffton Road to Lafayette Street will no longer be the most appropriate and/or convenient way to route traffic except for local traffic;

WHEREAS, a proposed agreement has been prepared by the State of Indiana to effectuate the transfer of said road;

WHEREAS, said agreement commits the State to certain projects with respect to said road prior to transfer, which project includes the resurfacing of State Road 1 from .6 mile west to the south junction of US 27 and the adding of protected left turn signal phases on Bluffton Road at the intersection of BaerField Thru-way.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF FORT WAYNE, INDIANA:

SECTION 1. The agreement by and between the State of Indiana and the City of Fort Wayne concerning the

transfer of State Road 1 from north of the Fort Wayne bypass at Bluffton Road to Lafayette Street from the State highway system to the City of Fort Wayne street system, which agreement is attached hereto, made a part hereof, and marked Exhibit "A," is hereby approved and ratified.

SECTION 2. The appropriate officers of the City of Fort Wayne are hereby authorized to enter into and execute said agreement.

SECTION 3. This Ordinance shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.

Clifton R Edmonds
Councilmember

APPROVED AS TO FORM
AND LEGALITY

J. Timothy McCaulay
J. Timothy McCaulay, City Attorney

Read the ~~first~~ time in full and on motion by Edmonds, seconded by Talarico, and duly adopted, read the second time by title and referred to the Committee on Public Work (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council ~~Conference Room 128~~, City-County Building, Fort Wayne, Indiana, on _____, the _____, day of _____, 19____, at _____ o'clock ____.M.,E.S.T.

DATED: 6-12-90

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Edmonds, seconded by Talarico, and duly adopted, placed on its passage. ~~PASSED~~ ~~LOST~~ by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT
TOTAL VOTES	7			2
BRADBURY				✓
BURNS	✓			
EDMONDS	✓			
GiaQUINTA				✓
HENRY	✓			
LONG	✓			
REDD	✓			
SCHMIDT	✓			
TALARICO	✓			

DATED: 6-26-90.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as ~~(ANNEXATION)~~ ~~(APPROPRIATION)~~ ~~(GENERAL)~~ (SPECIAL) ~~(ZONING MAP)~~ ORDINANCE ~~RESOLUTION~~ NO. S-146-90 on the 26th day of June, 19 90,

ATTEST: Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

SEAL

PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 27th day of June, 19 90 at the hour of 1:30 o'clock P.M.,E.S.T.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 27th day of June, 19 90, at the hour of 4:00 o'clock P.M.,E.S.T.

PAUL HELMKE, MAYOR

AGREEMENT

This Agreement is made and entered into _____, 19__ by and between the State of Indiana acting by and through the Indiana Department of Transportation (hereinafter referred to as the STATE), the City of Fort Wayne, acting by and through the Board of Public Works and Safety of Fort Wayne (hereinafter referred to as the CITY), and Allen County acting by and through the Board of County Commissioners of Allen County (hereinafter referred to as the COUNTY).

WITNESSETH

WHEREAS, the STATE is constructing the Fort Wayne Bypass from Interstate Highway 69 (I-69) at Lafayette Center Road around south and east of the urbanized area and connecting to I-69 north of Fort Wayne and has an estimated completion date in 1993;

WHEREAS, traffic using the bypass will, to a large extent, be generated outside the urbanized area and traffic inside the bypass will, to a large extent, be local;

WHEREAS, the STATE has determined pursuant to I.C. 8-11-2-9 and I.C. 8-13-4-2 that existing SR 1 from north of the Fort Wayne Bypass at Bluffton Road to Lafayette Street will no longer be the most appropriate and/or convenient way to route traffic, but that the roads will continue to serve a useful purpose;

WHEREAS, I.C. 8-11-2-10 provides for transfer of roads or streets between systems;

NOW, THEREFORE, in consideration of the premises and the mutually dependent covenants herein contained, the parties hereto agree as follows:

Section 1 The parties hereto shall comply with applicable provisions set forth in (1) Title 23 of the US Code (2) the regulations issued thereto, and (3) the policies and procedures of the STATE and Federal Highway Administration relative to the work covered by this Agreement that is to utilize Federal-Aid funds.

Section 2 The STATE shall transfer jurisdiction of present SR 1 from just north of the Fort Wayne Bypass at Bluffton Road to US 27. See Exhibit A. The COUNTY shall accept jurisdiction of SR 1 from north of the Fort Wayne Bypass at Bluffton Road to the Corporate limits of Fort Wayne and the CITY shall accept jurisdiction of SR 1 from the Corporate limits of Fort Wayne to the south junction of US 27 (Lafayette Street) upon completion of the Fort Wayne Bypass segment from the interchange at I-69 and Lafayette Center Road to the interchange of the Fort Wayne Bypass at US 27/US 33 or upon completion of all the following STATE projects

(whichever is later):

A. Bridge reconstruction of SR 1 over Harbor Ditch No. 2, 3.9 miles south of US 27. Project Code 64830.
B. Resurface SR 1 from 0.6 mile west to the south junction of US 27. Project Code 17675.
C. Resurface SR 1 from the Wells/Allen County Line to 3.1 miles south of US 27. Project Code 31485.
D. Signal modernization at Ferguson Road, 4.1 miles south of SR 27. Project Code 12375.
E. Add protected left turn signal phases on Bluffton Road (SR 1) at the intersection with Baerfield Thru-way. District 83.3 Program funds.

Section 3 The STATE shall send the CITY and COUNTY a letter(s) by registered or certified mail to establish the effective date of each transfer. The STATE will provide detail drawings of termini of all routes being transferred from STATE jurisdiction to local agency jurisdiction at the time of transfer.

Section 4 The CITY and COUNTY shall provide all maintenance, reconstruction and construction for the roads transferred in Section 2 after the STATE sends a letter by registered or certified mail to the CITY and COUNTY establishing the effective date(s) of transfer.

Section 5 The STATE shall supply the CITY and COUNTY with a copy of all Official Actions for all traffic controls for the roads mentioned in Section 2.

Section 6 If any party to this Agreement becomes more than sixty (60) days late in making payments required by this Agreement, the aggrieved party may proceed in accordance with I.C. 8-14-1-9 to obtain a mandatory transfer of funds from the delinquent party's motor vehicle highway account to the aggrieved party's account.

Section 7 The STATE reserves the right to terminate this Agreement if the CITY or COUNTY fail to perform the acts required by this Agreement, or the STATE may elect to pursue any remedy available at law or equity.

Section 8 The CITY and COUNTY and their subcontractors, if any, shall not discriminate against any employee or applicant for employment, to by employed in the performance of work under this agreement, with respect to hire, tenure, terms, conditions or privileges of employment, because of race, color, religion, sex, handicap, national origin or ancestry. Breach of this covenant may be regarded as a material breach

of the Agreement.

Section 9 The CITY agrees to indemnify, defend, exculpate and hold harmless the STATE, its officials and employees from any liability due to loss, damage, injuries, or other casualties of whatever kind, or by whomsoever caused, to the person or property of anyone on or off the right-of-way arising out of, or connected with the sections of road covered by this Agreement or the work connected therewith, or from the installation, existence, use, maintenance, condition, repairs, alteration, or removal of any equipment or material, whether due in whole or in part to the negligent acts or omissions of the CITY its agents or employees or other persons engaged in the performance of the work including any claims arising out of the Workmen's Compensation Act or any other law, ordinance, order or decree. The CITY agrees to pay all reasonable expenses and attorneys fees incurred by or imposed on the STATE in connection herewith in the event that the CITY shall default under the provisions of this section. The effective date of this section with respect to each section of road shall be the effective date of each transfer.

Section 10 The COUNTY agrees to indemnify, defend, exculpate and hold harmless the STATE, its officials and employees from any liability due to loss, damage, injuries, or other casualties of whatever kind, or by whomsoever caused, to the person or property of anyone on or off the right-of-way arising out of, or connected with the sections of road covered by this Agreement or the work connected therewith, or from the installation, existence, use, maintenance, condition, repairs, alteration, or removal of any equipment or material, whether due in whole or in part to the negligent acts or omissions of the COUNTY its agents or employees or other persons engaged in the performance of the work including any claims arising out of the Workmen's Compensation Act or any other law, ordinance, order or decree. The COUNTY agrees to pay all reasonable expenses and attorneys fees incurred by or imposed on the STATE in connection herewith in the event that the COUNTY shall default under the provisions of this section. The effective date of this section with respect to each section of road shall be the effective date of each transfer.

INSOFAR as authorized by law, this Agreement shall be binding upon the parties hereto, their successors or assignees.

THIS AGREEMENT shall not be effective unless and until it is approved by the Attorney General of Indiana, or his authorized representative, as to legality and form.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

BOARD OF COUNTY COMMISSIONERS
ALLEN COUNTY

_____

_____

_____

_____

_____

ATTEST:

_____
Auditor

BOARD OF PUBLIC WORKS & SAFETY
FORT WAYNE

_____

_____

_____

_____

_____

_____
Mayor

ATTEST:

_____
Clerk-Treasurer

STATE OF INDIANA
INDIANA DEPARTMENT OF TRANSPORTATION

Recommended for Approval

Katherine R. Lyon
Deputy Commissioner,
Development

Executed By:

_____
Christine W. Letts
Commissioner

ATTEST:

_____
Daniel A. Novreske
Deputy Commissioner,
Administration

Approved as to Legality and Form:

_____FOR
Linley E. Pearson
Attorney General

A C K N O W L E D G M E N T

State of_____County of _____, SS:

Before me, the undersigned Notary Puble, in and for said County personally appeared _____
(Name of signers, their official capacity and agency name)
and each acknowledged the execution of the foregoing agreement on this _____ day of _____, 19__.

Witness my hand and seal the said last named date.

My Commission Expires

_____ _____
Notary Public

A C K N O W L E D G M E N T

State of_____County of _____, SS:

Before me, the undersigned Notary Puble, in and for said County personally appeared _____
(Name of signers, their official capacity and agency name)
and each acknowledged the execution of the foregoing agreement on this _____ day of _____, 19__.

Witness my hand and seal the said last named date.

My Commission Expires

_____ _____
Notary Public

A C K N O W L E D G M E N T

State of Indiana, County of Marion, SS:

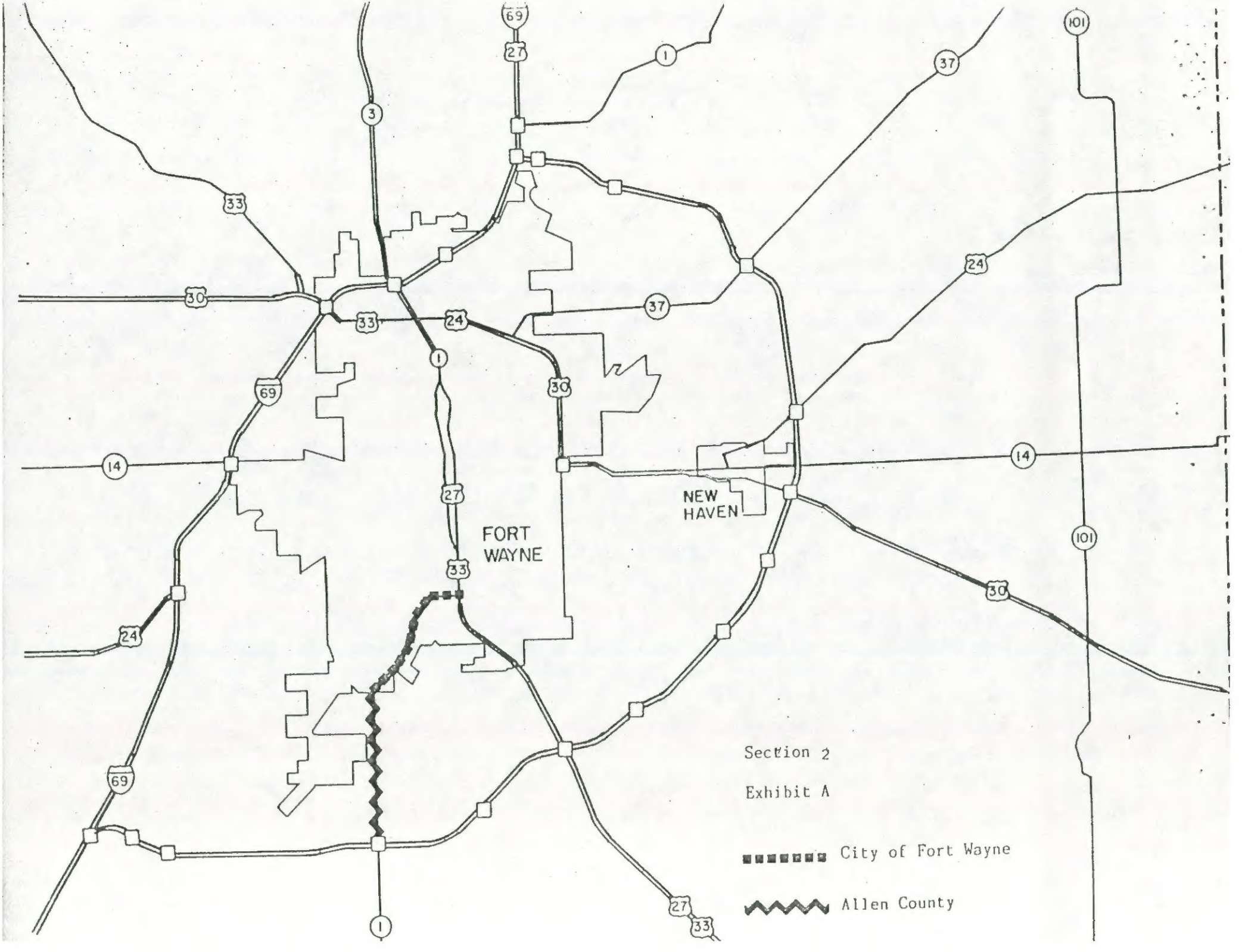
Before me, the undersigned Notary Public in and for said County, personally appeared Christine W. Letts, Commissioner of the Indiana Department of Transportation, and acknowledged the execution of the foregoing agreement on this _____ day of _____, 19__.

Witness my hand and seal the said last named date.

My Commission Expires

_____ _____

Notary Public


FORT
WAYNE
NEW
HAVEN
Section 2
Exhibit A
City of Fort Wayne
Allen County

Admn. Appr._____

DIGEST SHEET

TITLE OF ORDINANCE SPECIAL ORDINANCE AUTHORIZING AGREEMENT TO ACCEPT TRANSFER OF SR I

DEPARTMENT REQUESTING ORDINANCE BOARD OF PUBLIC WORKS

SYNOPSIS OF ORDINANCE (1) TRANSFER SR I TO CITY ROAD SYSTEM

(2) COMMITS STATE TO MAKE CERTAIN IMPROVEMENT PRIOR TO TRANSFER

S-90-06-18

EFFECT OF PASSAGE TRANSFER WILL TAKE PLACE WITH IMPROVEMENTS

EFFECT OF NON-PASSAGE STATE WILL ABANDON SR I WITH CITY OBLIGATED TO MAKE IMPROVEMENTS

MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS)_____

ASSIGNED TO COMMITTEE (PRESIDENT)_____

BILL NO. S-90-06-18

REPORT OF THE COMMITTEE ON PUBLIC WORKS

MARK E. GiaQUINTA, CHAIRMAN
CLETUS R. EDMONDS, VICE CHAIRMAN
HENRY, SCHMIDT, TALARICO

WE, YOUR COMMITTEE ON PUBLIC WORKS TO WHOM WAS

REFERRED AN (ORDINANCE) (~~RESOLUTION~~) authorizing and approving the execution of a certain agreement with the State of Indiana concerningthe transfer of existing SR 1 from north of the Fort Wayne bypass of Bluffton Road to Lafayette Street from the State of Indiana to the City of Fort Wayne

HAVE HAD SAID (ORDINANCE) (~~RESOLUTION~~) UNDER CONSIDERATION AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID (ORDINANCE) (~~RESOLUTION~~)

DO PASS	DO NOT PASS	ABSTAIN	NO REC
Cletus R Edmonds			
Samuel J. Talarico			

DATED: 6-26-90

Sandra E. Kennedy
City Clerk